

# Senate File 86 - Introduced

SENATE FILE 86

BY KINNEY

## A BILL FOR

1 An Act relating to providing and expunging a DNA sample in  
2 criminal proceedings involving a person arrested for a  
3 felony.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 81.1, subsection 9, Code 2017, is amended  
2 to read as follows:

3 9. *"Person required to submit a DNA sample"* means a person  
4 arrested, convicted, adjudicated delinquent, receiving a  
5 deferred judgment, or found not guilty by reason of insanity  
6 of an offense requiring DNA profiling pursuant to section  
7 81.2. *"Person required to submit a DNA sample"* also means a  
8 person determined to be a sexually violent predator pursuant  
9 to section 229A.7.

10 Sec. 2. Section 81.2, Code 2017, is amended by adding the  
11 following new subsection:

12 NEW SUBSECTION. 01. A person who is arrested for a felony  
13 shall be required to submit a DNA sample for DNA profiling  
14 pursuant to section 81.4, upon a finding of probable cause  
15 pursuant to section 81.2A.

16 Sec. 3. NEW SECTION. **81.2A Persons arrested for a felony**  
17 **required to submit a DNA sample — finding of probable cause.**

18 A person who is arrested for a felony shall be required to  
19 submit a DNA sample for DNA profiling pursuant section 81.4  
20 upon a finding by a magistrate that probable cause exists for  
21 the arrest.

22 Sec. 4. Section 81.4, subsection 2, Code 2017, is amended  
23 to read as follows:

24 2. A supervising agency having control, custody, or  
25 jurisdiction over a person shall collect a DNA sample from a  
26 person required to submit a DNA sample. The supervising agency  
27 of a person required to submit a DNA sample shall collect a  
28 DNA sample, upon admittance to the pertinent institution or  
29 facility, of the person required to submit a DNA sample or upon  
30 a finding of probable cause pursuant to section 81.2A, or at a  
31 determined date and time set by the supervising agency. If a  
32 person required to submit a DNA sample is confined at the time  
33 a DNA sample is required, the person shall submit a DNA sample  
34 as soon as practicable. If a person required to submit a DNA  
35 sample is not confined after the person is required to submit a

1 DNA sample, the supervising agency shall determine the date and  
2 time to collect the DNA sample.

3 Sec. 5. Section 81.9, subsections 1 and 2, Code 2017, are  
4 amended to read as follows:

5 1. A person whose DNA record has been included in the DNA  
6 database or DNA data bank established pursuant to section  
7 81.3 may request, in writing to the division of criminal  
8 investigation, expungement of the DNA record from the DNA  
9 database and DNA data bank based upon the person's conviction,  
10 adjudication, or civil commitment which caused the submission  
11 of the DNA sample being reversed on appeal and the case  
12 dismissed, or upon the person's arrest for a felony not leading  
13 to the conviction of any offense. The written request shall  
14 contain a certified copy of the final court order reversing the  
15 conviction, adjudication, or civil commitment, and a certified  
16 copy of the dismissal, and any other information necessary to  
17 ascertain the validity of the request.

18 2. The division of criminal investigation, upon receipt of a  
19 written request that validates ~~reversal on appeal of a person's~~  
20 ~~conviction, adjudication, or commitment, and subsequent~~  
21 ~~dismissal of the case~~ the request for expungement under  
22 subsection 1, or upon receipt of a written request by a person  
23 who voluntarily submitted a DNA sample pursuant to section  
24 81.3, subsection 3, paragraph "b", shall expunge all of the  
25 DNA records and identifiable information of the person in the  
26 DNA database and DNA data bank. However, if the division of  
27 criminal investigation determines that the person is otherwise  
28 obligated to submit a DNA sample, the DNA records shall not be  
29 expunged. If the division of criminal investigation denies  
30 an expungement request, the division shall notify the person  
31 requesting the expungement of the decision not to expunge  
32 the DNA record and the reason supporting its decision. The  
33 division of criminal investigation decision is subject to  
34 judicial review pursuant to [chapter 17A](#). The department of  
35 public safety shall adopt rules governing the expungement

1 procedure and a review process.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with  
4 the explanation's substance by the members of the general assembly.

5 This bill relates to providing and expunging a DNA sample in  
6 criminal proceedings involving a person arrested for a felony.  
7 Current law requires a person convicted of a felony or  
8 certain aggravated misdemeanors to submit a DNA sample for DNA  
9 profiling. The bill requires a person arrested for a felony  
10 to submit a DNA sample for DNA profiling, upon a finding by a  
11 magistrate that probable cause exists for the arrest.  
12 The bill requires the supervising agency with jurisdiction  
13 over a person arrested for a felony to collect the DNA sample  
14 after a finding of probable cause.  
15 The bill allows a person arrested for a felony to expunge  
16 the DNA record from the DNA database and DNA data bank if the  
17 person's felony arrest does not lead to the conviction of any  
18 offense.